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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,098	07/08/2003	Teunis Dekker	ISCAT-005A	8653
7590 Eric L. Tanezaki STETINA BRUNDA GARRED & BRUCKER Suite 250 75 Enterprise Aliso Viejo, CA 92656			EXAMINER HANLEY, SUSAN MARIE	
			ART UNIT 1651	PAPER NUMBER
			MAIL DATE 09/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/615,098

Applicant(s)

DEKKER ET AL.

Examiner

Susan Hanley

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27, 29-44, 46 and 47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27, 29-44, 46 and 47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 7/11/07 has been entered.

Claims 1-27, 29-44, 46 and 47 are under examination.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The Interview Summary filed on 9/7/07 is acknowledged.

Specification

The amendment filed 7/11/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The specification has been amended at paragraphs [0014] and [0026] to include compounds that were not contemplated in the specification as-filed. Therefore, the amended specification now contains NEW MATTER. The structures in the indicated paragraphs have been amended such that the group that "n" has been placed to the right of the parenthetical expression, "n" has replaced "d" in the phrase "wherein d is at least zero" and "(CH₂)₀" has been replaced by "(CH₂)_n". These variable were not disclosed in the specification as filed.

Applicant is required to cancel the new matter in the reply to this Office Action.

Response to Arguments

Applicant's arguments with respect to claims 1-7, 8-27, 29-44, 46 and 47 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

Claims 1-7, 8-27, 29-44, 46 and 47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claims are drawn to a composition, trap, and methods of making same, for modifying the behavior of an arthropod that is parasitic to a vertebrate host, wherein the composition comprises 1) an artificial lipid that is not attractive to said insect and 2) a microorganism that is associated with the skin of said vertebrate host. The artificial lipid can be found on the skin of the vertebrate host, such as the sebaceous gland, or can be selected from triglycerides, sterols, sterol precursors, waxes, or hydrolyzed lipids such as fatty acids. Paragraph 0062 is the only disclosure related to the non-attractive lipid media limitation. The specification states:

"Generally, the lipid based media 24 discussed above are not attractive to parasitic arthropods. In particular, the lipid based media 24 such as triglycerides for human hosts 20 are not attractive to arthropods 22 which are parasitic to human hosts 20."

The specification does not teach how the skilled artisan would determine the attractive properties of the lipids.

The prior art teaches away from the concept that lipids associated with skin are not attractive to parasitic arthropods. Arlian et al. (1995) disclose that bioassays were conducted to

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determine if *Sarcoptes scabiei* (canine mites, an arthropod parasite) were attracted to lipid compounds that occur on the epidermis of human or mammalian skin. Arlian et al. tested 17 different lipids and discovered that mites were attracted to some fatty acids (e.g., a lipid hydroxylate product), fatty acid methyl esters, cholesterol (e.g., a sterol), squalene (e.g., a sterol precursor) and a triglyceride (tripalmitin). Arlian et al. concluded that host skin lipids may contribute to host specificity in host-parasite relationships (abstract). Thus, Arlian et al. contradict the specification regarding the likelihood that many of the claimed skin-associated lipids lack attractive properties for parasitic arthropods.

Therefore, the specification is not enabled for the newly added limitation that the artificial lipid based media that is not attractive to arthropods which are parasitic to a vertebrate host. The prior art teaches that the majority of the claimed lipids are attractive to parasitic arthropods. The specification does not provide reliable disclosure that guides the skilled artisan in determining how any lipids support the newly added limitation.

Claims 1-7, 8-27, 29-44, 46 and 47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims are drawn to a composition, trap, and methods of making same, for modifying the behavior of an arthropod that is parasitic to a vertebrate host, wherein the composition comprises 1) an artificial lipid that is not attractive to said insect and 2) a microorganism that is associated with the skin of said vertebrate host. The artificial lipid can be

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found on the skin of the vertebrate host, such as the sebaceous gland, or can be selected from triglycerides, sterols, sterol precursors, waxes, or hydrolyzed lipids such as fatty acids. Paragraph 0062 is the only disclosure related to the non-attractive lipid media limitation. The specification states:

"Generally, the lipid based media 24 discussed above are not attractive to parasitic arthropods. In particular, the lipid based media 24 such as triglycerides for human hosts 20 are not attractive to arthropods 22 which are parasitic to human hosts 20."

Thus, the specification teaches that triglycerides are not attractive to arthropods but the concept of non-attractive lipid properties is not broadly drawn to any other disclosed lipids. Because the non-attractive lipids limitation only relates to triglycerides, said limitation is NEW MATTER with regard to the other claimed lipids. Because the claims encompass numerous types of lipids as being non-attractive to parasites that are neither contemplated nor disclosed by the as-filed disclosure, it is clear that applicant was not in possession of the full scope of the claimed subject matter at the time of filing.

The rejection of claims 1-6, 8-27, 29-44, 46 and 47 under 35 U.S.C. 103(a) as being unpatentable over Bernier et al. (6,267,953; item 9 in the IDS filed 1/5/04) in view of Braks et al. (2000) is withdrawn. However, the deletion of the limitation that are deemed NEW MATTER will cause the reinstatement of the rejection, pending other claim amendments.

Citation of Prior Art

Ollar (US 5,776,722) and Ollar (US 6,277,562) are cited to further establish the state of the art regarding the immobilization of microorganisms on substrates.

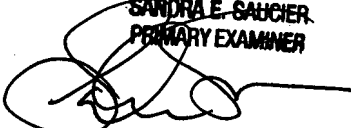
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Hanley whose telephone number is 571-272-2508. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Susan Hanley
Patent Examiner
AU 1651


SANDRA E. SAUCIER
PRIMARY EXAMINER